Implications for the U.S. of Major Disparities in the EU Mobile Sector

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We are submitting for your information a study carried out by a Finnish research company, Rewheel (www.rewheel.fi), comparing wireless broadband tariffs across the 27 countries (soon to be 28) in the European Union (EU). The findings are theirs and we have not independently confirmed them. However, they are consistent with our own less comprehensive perspectives on telecommunications markets in the EU.

We have discussed this report with Rewheel's principals to determine their interest and secure their agreement to make their research better known to key U.S. stakeholders as well as to establish their credibility to our own satisfaction. We are hopeful that this work will be extended to include transatlantic comparisons that will help assess the validity of assertions of the superiority and international leadership of the U.S. mobile sector relative to other countries[1].

Rewheel's findings may be significant in the U.S. context for two reasons:

- They demonstrate the substantial impact on broadband customers of different competitive regimes or intensity of competition in national telecommunications markets, specifically the much higher retail prices that customers pay if large operators do not face effective challengers, which is a matter of concern in the U.S. market;
- They show that the U.S. is far from being the LTE leader on the global stage, except in terms of currently having the greatest absolute number of LTE subscribers.[2] For example the prices of LTE services per Gigabyte (GB) reported by Rewheel are consistent with the finding in an earlier report that U.S. prices for LTE services are substantially higher than those in several European countries.[3]

[1] These claims of U.S> superiority have been rebutted, e.g. http://apps.fcc.gov/ecfs/document/view?id=7022418673

[2] South Korea ranks much higher in terms of LTE subscriptions per head, with about 20 million LTE subscriptions as of Q1 2013 (a penetration of about 40%), compared to the U.S. LTE penetration of less than 15% (although MetroPCS reported that LTE subscriptions accounted for 39% of its subscriber base as of Q1 2013). It is of course natural for the U.S. to account for the largest absolute number of LTE subscribers even if it had not been an early (but not the first) mover in LTE deployments, since it has by far the largest population of the world's wealthy economies (about 315 million compared to the next most populous advanced economy Japan, with some 125 million).

[3] "Americans Paying More for LTE Service," http://www.nytimes.com/2012/10/15/technology/americans-paying-more-for-lte-service.html?_r=0

These findings are consistent with the proposition that it would be harmful to the public interest, the effectiveness of competition, and the needs of consumers, if the two largest U.S. mobile operators were to be given free rein to apply their vast financial resources to prevent other competitors from acquiring more spectrum by being allowed to expand their own spectrum portfolios without any limitation. These resources were built because of government-awarded legacy franchises and licenses, while, without new spectrum, other operators are unable to deploy enough capacity economically to be competitive in delivering LTE-based capacity and services. If AT&T and Verizon have their way, the U.S. market will end up not like the "progressive", i.e., competitive markets in Europe, but rather like the high cost, uncompetitive markets, such as Germany, that are identified in the Rewheel report.

The EU Competition Commissioner Joaquin Almunia referred to the Rewheel report in the second annual European Competition Forum in February 2013. He noted the finding that users in Europe pay as much as ten times more to use their smartphones in countries where the biggest European operators have no local competitors[4]. The four leading European operator groups (Vodafone, Deutsche Telekom, France Telecom (or Orange), and Telefonica) already account for some 80% of all EU mobile subscriptions. This finding gives rise to legitimate concerns about the consequences if further cross-border consolidation within the EU were to lead to the elimination of other competitors or challengers to the European Big 4 that have been able, as in Finland, to remain profitable, even though they charge their customers much lower prices.

Whether further consolidation of competitive operators is regarded as desirable or not, either in Europe and/or the U.S., the different market conditions across the EU, reported by Rewheel, provide evidence of the need for effective regulation to ensure a competitive mobile market. The costs and resources that have to be devoted to regulation, both in the regulator and in the regulated companies, should be kept to a minimum. This goal can be achieved with the help of effective competition between and among network operators that will benefit customers, due to their incentives to capture and keep customers by differentiating their service offerings through price, quality, performance, and innovative features, or some combination thereof.

However, the substantial disparities outlined by Rewheel between the "progressive" and the less competitive national markets in Europe, demonstrate how a few large operators can tacitly coordinate their plans and policies in ways that are not in the interest of customers or the public interest. Spectrum is a publicly-owned and valuable resource and those who are awarded its exclusive use should be held to a high standard in serving the public interest while meeting their fiduciary and other obligations to their shareholders.

The weight given to the public interest should be higher in the U.S. than in Europe because U.S. spectrum licenses are renewed by the FCC at no cost to the licensees. As a result, for financial reporting purposes, U.S. licensees generally treat FCC licenses as indefinitely-lived intangible

[4]"Relying on the Single Market for the future of Europe", http://europa.eu/rapid/press-release_SPEECH-13-168_en.htm?locale=en

assets under the provisions of Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 820, Fair Value Measurements and Disclosures ("FASB ASC 820"). In contrast, European licensees (and those in other countries from Australia to Canada) have to pay additional fees to have their licenses renewed, and therefore, unlike their U.S. counterparts, continue to deliver a return to the public Treasury.